

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

THOMAS JAMES JOHNSON, JR.

Plaintiff,

VS.

EDUARDO AKHATAU and WEST & EAST  
CARRIERS, INC.,

Defendants.

[illegible]

Civil Action No. 6:20-cv-01179

## ORIGINAL COMPLAINT

TO THE HONORABLE JUDGE OF THIS COURT:

NOW COMES PLAINTIFF THOMAS JAMES JOHNSON, JR. and files this Plaintiff's Original Complaint complaining of Defendant EDUARDO AKHATAU and WEST & EAST CARRIERS, INC.

## I. PARTIES

1. Plaintiff Thomas James Johnson, Jr. is an individual residing at 206 McGee Trail in Kingsland, Texas 78639.
2. Defendant Eduardo Akhatau (“Defendant Akhatau”) is an individual residing at 1223 East Prairie Brook Drive in Palatine, Illinois 60074. Service of citation is requested for this Defendant at that address.
3. Defendant West & East Carriers, Inc. (“Defendant West & East”) is a foreign corporation

doing business in Texas. The principle address for the company is 869 E. Schaumburg Road #378, Schaumburg, Illinois 60194. Service of citation is requested for the company's agent for service, Lyudmila Aleksyuk, at that address.

## **II. JURISDICTION/VENUE**

4. Jurisdiction arises under 28 U.S.C. § 1332 (diversity) as the suit is between citizens of different states and the matter in controversy exceeds the sum of \$75,000, excluding interest and costs.

5. Venue is proper under 28 U.S.C. § 1391 (b) (2) as a substantial part of the events or omissions giving rise to the claim occurred in the Western District of Texas.

## **III. STATEMENT OF CLAIM**

6. On May 20, 2019, Defendant Eduard Akhatau was driving westbound in a blue 2016 Freightliner tractor-trailer rig in the course and scope of his employment with Defendant West & East Carriers on State Highway 29 in Llano, Texas. Defendant Akhatau stopped in the left lane after missing the entrance for a delivery to Buchanan Septic. Defendant Akhatau negligently attempted to turn right into the Partners parking lot from the left lane. At that time he collided with the Plaintiff who was driving a blue 2007 GMC Sierra pickup pulling a trailer westbound in the right lane on SH 29. The collision proximately caused the Plaintiff injuries and damages.

## **IV. CAUSES OF ACTION**

7. Defendant Akhatau had common-law and statutory duties to use ordinary care in the operation of the Defendant West & East's vehicle. Defendant Akhatau negligently breached those duties and that negligence proximately caused injury and damage to Plaintiff. Specifically, Defendant Akhatau was negligent and negligent per se in the following particulars:

- a. Failing to keep a proper lookout;

- b. Failing to control his speed;
- c. Failing to apply timely his brakes;
- d. Failing to take proper evasive action;
- e. Failing to abide by Tex. Transp. Code § 545.060(a), which provides that: “An operator: (1) shall drive as nearly as practical entirely within a single lane and (2) may not move from that lane unless that movement can be made safely.”;
- f. Failing to abide by Tex. Transp. Code § 545.103, which provides that: “An operator may not turn the vehicle to enter a private road or driveway... unless movement can be made safely.”;
- g. Failing to abide by Tex. Transp. Code § 545.101 requiring that a driver making a right turn to travel “as closely as practicable to the right-hand curb or edge of the roadway.”;
- h. Violating Tex. Transp. Code § 545.401 by driving a vehicle in willful or wanton disregard for the safety of persons or property;
- i. Making an unsafe lane change;
- j. Turning right from the left-hand lane; and
- k. In all things failing to act as a reasonable person using ordinary care in the same or similar circumstances.

Each of these acts was a proximate cause of the collision and the Plaintiff’s injuries and damages.

8. Defendant West & East is liable to Plaintiff for each of the following acts of negligence which were a proximate cause of the collision and Plaintiff’s injuries and damages:

- a. Negligently hiring and/or training Defendant Akhatau;
- b. Negligently entrusting its vehicle to Defendant Akhatau when he was not competent to drive the vehicle; and
- c. Negligently undertaking to provide a vehicle such as the one in question to Defendant Akhatau when he was not competent to drive the vehicle.

9. Defendant West & East is also vicariously liable to the Plaintiff for the negligence of its driver Defendant Akhatau which proximately caused the collision and Plaintiff's injuries and damages under the doctrine of respondeat superior.

#### **V. PRAYER**

10. Because of his injuries and damages proximately caused by the Defendants' negligence, Plaintiff is entitled to reasonable compensation for the following elements of damages, both up to the time of trial and beyond:

- a. reasonable and necessary medical expenses;
- b. lost wages and loss of earning capacity;
- c. physical impairment;
- d. physical pain and mental anguish; and
- e. disfigurement.

#### **VI. PRAYER**

11. Plaintiff prays that he have judgment against the Defendants for actual damages; post-judgment interest at the legal rate for the time periods permitted by law on the appropriate elements of damages; costs of court; and all other relief, legal and equitable, to which he is entitled.

#### **VII. CERTIFICATION AND CLOSING**

12. Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for

further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

Respectfully submitted,

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